IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 16TH OCTOBER 2007 / 24TH ASWINA 1929

Bail Appl..No. 6229 of 2007()

STC.2356/2006 of J.M.F.C.,THALASSERY

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: PETITIONER (ACCUSED)

C.H.AMMED, PUTHEN PURAYIL,
CHETTINDAVIDE, EDACHERRY,
VADAKARA.

BY ADV. SRI.T.M.ABDUL LATHEEF

RESPONDENTS: (STATE & COMPLAINANT)

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1. STATE OF KERALA, REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

2. SUB INSPECTOR OF POLICE, THALASSERY.

BY PUBLIC PROSECUTOR SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 16/10/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

B.A.No.6229 of 2007

Dated this the 16th day of October, 2007

ORDER

Application for anticipatory bail. The petitioner faces indictment in a prosecution under Section 138 of the Negotiable Instruments Act. Cognizance was taken in the year 2006. The petitioner has not entered appearance so far. Warrant of arrest issued by the learned Magistrate is chasing the petitioner.

2. According to the petitioner, he is absolutely innocent. He was not available in India. His absence earlier was not wilful or deliberate. He is willing to surrender before the learned Magistrate. But he apprehends that his application for regular bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. It is therefore prayed that directions under Section 438 and/or 482 Cr.P.C may be issued in favour of the petitioner.

3. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider such application on merits, in accordance with law and

expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police [**2003(1) KLT 339].

4. This bail application is, in these circumstances, dismissed, but with the specific observation that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously - on the date of surrender itself.

(R.BASANT, JUDGE)

rtr/-